

REMARKS/ARGUMENTS

Claims 1-48 are pending in the present application. All claims have been rejected. Claims 1, 17, and 33 have been amended to rephrase their existing elements in a manner as to highlight the differences between the claims of the present application and prior art. No new subject matter was added.

The Examiner rejected Claims 1-48 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,014,629 to DeBruin-Ashton (DeBruin), in view of U.S. Patent No. 6,283,761 to Joao (Joao). The Examiner referred to col. 12, lines 37-67 of DeBruin as teaching the service provider database being claimed in the present invention. On page 12, lines 1-7, the inventive specification describes a portion of its database as follows:

“Further, a data base 170 containing information about **what is included in connection with a particular medical service, designated “products”** herein, an experience data base 180 related to the participating providers’ experience with respect to certain medical products and an outcomes data base indicating the outcomes of the providers with respect to different courses of treatment, i.e., percentage of outcomes that were successful, are also provided.” (emphasis added)

Independent Claims 1, 17, and 33 were amended to emphasize the above description. DeBruin, in the section referenced by the Examiner or elsewhere does not disclose a database including a plurality of medical service associated health care service products offered by the service providers as claimed in the present invention. Therefore, DeBruin does not teach or describe “a service provider data base identifying a plurality of health care service providers and a plurality of medical service associated health care service products offered by the service providers”, recited in amended Claims 1, 17, and 33.

The Examiner admits that DeBruin does not disclose the remaining elements of the inventive claim but believes that Joao suggests them. Joao, as described in its Abstract, discloses a method for providing healthcare information, as follows:

- a. receiving or accepting symptom and condition information corresponding to a patient;
- b. generating a diagnostic report containing a list of possible diagnoses by processing symptom and condition information corresponding to a patient together with healthcare information, theories, principles, and research. The diagnostic report includes a treatment report, described at col. 25 lines 47-50 “At step 707, the central processing computer 10 will then

generate a treatment report which will outline and/or prescribe treatment for the single diagnosis and/or for the list of possible diagnoses, if any. The central processing computer 10, when generating the treatment report, can process same in conjunction with, and consider, possible drug interactions and/or treatment interactions.”;

- c. transmitting the diagnostic report to a healthcare provider;
- d. receiving a final diagnosis from the healthcare provider; and
- e. generating a claim form for submission to at least one of a healthcare payer and a healthcare insurer.

In short, Joao diagnoses patient’s symptoms, identifies a treatment for the diagnosis, verifies the diagnosis and the identified treatment with a medical authority, and then bills the patient or an insurance company.

The present invention is different. It is about identifying and providing options. The present invention (a) accepts a diagnosis (b) automatically generates a list of treatment options, (c) allows the consumer to select a treatment of choice from the list of treatment options, (d) automatically provides a list of health care service providers that perform the selected treatment in accordance with consumer’s preferences, so that the consumer can make a selection of the provider. The invention maintains a database that includes health care service providers and health care service products associated with medical service offered by the service providers. The invention claims

- a. receiving or accepting a diagnosis from a consumer or an alternative diagnosis determiner;
- b. automatically determining treatment options based on the received diagnosis;
- c. allowing the consumer to select a treatment from the at least one treatment option; and
- d. automatically determining a service provider or providers appropriate for the selected treatment, based on the selected treatment and a treatment preference, such as geographical location of the provider, insurance plan participation, cost, provider experience with the at least one treatment option, and provider outcome with respect to the at least one treatment option.

The Examiner references Joao col. 26, lines 20-43 as teaching “automatically determining with the computer program at least one treatment option based on a diagnosis provided by the consumer or determined by an alternative diagnosis determiner”. As discussed above, Joao teaches receiving symptoms and condition information and generating a diagnostic

report based on symptoms and condition. The present application is different. It claims providing a diagnosis to create a list of treatment options. Joao does not teach or describe “receiving a diagnosis provided by a consumer or an alternative diagnosis determiner”, recited in claims 1, 17, and 33 as amended.

For at least the same reason, because Joao’s treatment report is based on the symptoms and condition, not on a provided diagnosis, Joao does not teach or describe “automatically determining with the computer program at least one treatment option based on the received diagnosis provided by the consumer or determined by the alternative diagnosis determiner”, recited by amended Claims 1, 17, and 33.

The Examiner further references Joao at col. 30, line 48 to col. 31, line 4 as teaching “automatically determining with the computer program at least one appropriate service provider based on the automatically determined at least one treatment option and further based on a treatment preference”. This claimed element includes an implicit sub-element for selecting a treatment from a list of treatment options. Providing a choice of treatment or listing the treatment options to the consumer or allowing selection by the consumer of one of the offered treatment options is not discussed in Joao. Hence, Joao does not teach or describe “selecting a treatment from the at least one treatment option”, recited in claims 1, 17, and 33 as amended. Additionally, because Joao does not teach providing a choice or list of treatment options, Joao cannot teach any step that results as an outcome of making a choice based on these lists. Joao does not teach or describe “automatically determining with the computer program at least one appropriate service provider for the selected treatment, based on the selected treatment and further based on a treatment preference”, recited in amended Claims 1, 17, and 33.

In his specification col. 30, line 61 to col. 31, line 1 Joao states: “the patient or provider accesses that central processing computer 10 and provides information regarding the service needed. At step 1002, the central processing computer 10 will process the request and identify one or more specialists along with their backgrounds, insurance coverage accepted, fees, and/or any educational, professional experience and/or any other information about the provider.” This is a very different approach from that provided by the inventive application, which teaches that a list of treatment options is automatically provided, a selection is made from the list of treatment options by the consumer, a list of doctors is automatically determined for the selected treatment, based on the selected treatment and consumer preferences. While Joao presents information for

each provider to the consumer, the present invention uses consumer provided preferences to select or determine a provider automatically. Therefore, Joao does not teach or describe "automatically determining with the computer program at least one appropriate service provider for the selected treatment, based on the selected treatment and further based on a treatment preference, the treatment preference comprising at least one of geographical location of the provider, insurance plan participation, cost, provider experience with the at least one treatment option, and provider outcome with respect to the at least one treatment option", recited in amended Claims 1, 17, and 33.

Thus, independent Claims 1, 17, and 33 are patentably distinct from DeBruin and/or Joao or their combination. Claims 2-16, 18-32 and 34-48 depend directly or indirectly from above discussed independent Claims and are, therefore, patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims. Reconsideration is, therefore, requested.

The application is believed to be in condition for allowance. Early and favorable consideration of the present application is earnestly solicited.

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January 13, 2006

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